

**IC 35-50**

**ARTICLE 50. SENTENCES**

**IC 35-50-1**

Chapter 1. General Provisions

**IC 35-50-1-1**

**Authority to sentence**

Sec. 1. The court shall fix the penalty of and sentence a person convicted of an offense.

*As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.110.*

**IC 35-50-1-2**

**Consecutive and concurrent terms**

Sec. 2. (a) As used in this section, "crime of violence" means:

- (1) murder (IC 35-42-1-1);
- (2) attempted murder (IC 35-41-5-1);
- (3) voluntary manslaughter (IC 35-42-1-3);
- (4) involuntary manslaughter (IC 35-42-1-4);
- (5) reckless homicide (IC 35-42-1-5);
- (6) aggravated battery (IC 35-42-2-1.5);
- (7) kidnapping (IC 35-42-3-2);
- (8) rape (IC 35-42-4-1);
- (9) criminal deviate conduct (IC 35-42-4-2);
- (10) child molesting (IC 35-42-4-3);
- (11) sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2);
- (12) robbery as a Class A felony or a Class B felony (IC 35-42-5-1);
- (13) burglary as a Class A felony or a Class B felony (IC 35-43-2-1); or
- (14) causing death when operating a motor vehicle (IC 9-30-5-5).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the aggravating and mitigating circumstances in IC 35-38-1-7.1(b) and IC 35-38-1-7.1(c) in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the presumptive sentence for a felony which is one

(1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime;

or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If a court determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

*As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.111; P.L.330-1987, SEC.1; P.L.164-1994, SEC.1; P.L.304-1995, SEC.1; P.L.203-1996, SEC.7; P.L.219-1997, SEC.1; P.L.228-2001, SEC.6; P.L.266-2003, SEC.2.*

### **IC 35-50-1-3 Repealed**

*(Repealed by P.L.305-1987, SEC.38.)*

### **IC 35-50-1-4**

#### **Repealed**

*(Repealed by P.L.5-1986, SEC.61.)*

### **IC 35-50-1-5**

#### **Postconviction remedy; imposition of penalty more severe than originally imposed; credit for time served**

Sec. 5. If:

(1) prosecution is initiated against a petitioner who has successfully sought relief under any proceeding for postconviction remedy and a conviction is subsequently obtained; or

(2) a sentence has been set aside under a postconviction remedy and the successful petitioner is to be resentenced;

the sentencing court may impose a more severe penalty than that originally imposed, and the court shall give credit for time served.

*As added by P.L.179-1984, SEC.3.*

### **IC 35-50-1-6**

#### **Placement in secure private facility**

Sec. 6. (a) Before a person who has been convicted of an offense and committed to the department of correction is assigned to a department of correction program or facility under IC 11-10-1, the sentencing court may recommend that the department of correction

place the person in a secure private facility (as defined in IC 31-9-2-115) if:

(1) the person was less than sixteen (16) years of age on the date of sentencing; and

(2) the court determines that the person would benefit from the treatment offered by the facility.

(b) A secure private facility may terminate a placement and request the department of correction to reassign a convicted person to another department of correction facility or program.

(c) When a convicted person becomes twenty-one (21) years of age or if a secure private facility terminates a placement under subsection (b) a convicted person shall:

(1) be assigned to a department of correction facility or program under IC 11-10-1-3(b); and

(2) serve the remainder of the sentence in the department of correction facility or program.

(d) A person who is placed in a secure private facility under this section:

(1) is entitled to earn credit time under IC 35-50-6; and

(2) may be deprived of earned credit time as provided under rules adopted by the department of correction under IC 4-22-2.

*As added by P.L.79-1994, SEC.17. Amended by P.L.1-1997, SEC.154; P.L.1-2002, SEC.151.*

#### **IC 35-50-1-7**

##### **Notifying department of name and address of victim**

Sec. 7. Whenever a court commits a person to the department of correction as a result of a conviction, the court shall notify the department of correction of the last known name and address of any victim of the offense for which the person is convicted.

*As added by P.L.90-2000, SEC.19.*